

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 SS-15 SP-02 L-03 EB-07 INR-07 SSO-00

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FM AMEMBASSY LA PAZ

TO SECSTATE WASHDC IMMEDIATE 9602

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STADIS//////////

E.O. 11652: N/A

TAGS: EINV, BL

SUBJECT: OPIC INSURANCE/FINANCE POLICY IN BOLIVIA

REF: (A) LA PAZ 726; (B) LA PAZ 8693; (C) 75 LA PAZ 8430

(D) STEDMAN/PACE TELCON OF FEB 6, 1976

1. PER REFERENCED TELCON, FOLLOWING IS THE STATE-
MENT OF OPIC POLICY ON BOLIVIA WHICH WAS ARRIVED AT AS RESULT
OF DISCUSSIONS DURING RECENT OPIC REPRESENTATIVE'S VISIT,
BUT WHICH OPIC/W REFUSED TO ACCEPT.

2. TEXT. OPIC IS PREPARED TO PROVIDE BOTH INVESTMENT INSURANCE
AND FINANCIAL SERVICES IN BOLIVIA IN ACCORDANCE WITH USUAL
ELIGIBILITY CRITERIA, WHICH INCLUDE PRIOR APPROVAL OF THE GOVERN-
MENT OF BOLIVIA. OPIC INSURANCE WILL NOT BE AVAILABLE, HOWEVER,
FOR EQUITY INVESTMENTS IN FARMING, RANCHING OR EXTRACTIVE PRO-
JECTS, SPECIFICALLY INCLUDING PRECIOUS AND NON-PRECIOUS MINERALS,
PETROLEUM AND NATURAL GAS. COVERAGE OF EQUITY IN INDUSTRIAL,
COMMERCIAL AND FINANCIAL SECTORS WILL BE AVAILABLE EXCEPT THAT
EQUITY IN PROJECTS EXPORTING TO THE ANDEAN COMMON MARKET WILL
NOT BE COVERED.

OPIC DIRECTS LOANS AND/OR LOAN GUARANTEES WILL BE AVAIL-
ABLE IN ACCORDANCE WITH NORMAL CRITERIA WITHOUT REGARD TO THE
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ABOVE LIMITATIONS. END TEXT.

3. THIS POLICY STATEMENT ARISES OUT OF MY STRONG VIEWS THAT EQUITY INVESTMENTS IN THE EXTRACTIVE AND FARM/RANCHING SECTORS ARE SO SENSITIVE POLITICALLY IN BOLIVIA THAT THE USG, THROUGH OPIC, SHOULD NOT BE IN THE POSITION OF FACILITATING INVESTMENTS WHICH HAVE SUCH A HIGH POSSIBILITY OF LEADING EVENTUALLY TO EXPROPRIATION PROBLEMS. I BELIEVE THAT THE AUTOMATIC, IMMEDIATE AND DIRECT USG INVOLVEMENT VIA OPIC IN AN EXPROPRIATION DISPUTE MAY HAVE UNNECESSARILY ADVERSE CONSEQUENCES FOR OTHER U.S. POLITICAL AND ECONOMIC INTERESTS IN BOLIVIA. WHILE USG MAY WELL BE CALLED ON TO PROTECT U.S. CITIZEN INVESTOR'S RIGHTS ANYWAY, FACT OF OPIC INSURANCE MAY INCREASE POSSIBILITY OF EXPROPRIATION AND CIRCUMSCRIBE USG'S FLEXIBILITY. (A) OPIC INSURANCE CAN PROVIDE A PSYCHOLOGICAL CUSHION FOR EXCESSIVE INSENSITIVITY ON THE PART OF SOME INVESTORS TO HOST COUNTRY POLICIES AND FEELINGS; (B) INSURANCE MAY ALSO RESULT IN INFLEXIBILITY IN SITUATIONS INVOLVING EXPROPRIATORY PRESSURES, ALTHOUGH THE EMBASSY APPRECIATES THAT OPIC CONTRACTS REQUIRE INVESTORS TO PROMPTLY NOTIFY OPIC OF ANY POSSIBLE EXPROPRIATORY ACTION SO THAT OPIC CAN ATTEMPT TO HEAD OFF THE PROBLEM.

4. IN THE CASE OF OPIC-INSURED LOAN INVESTMENTS, THERE IS LESS CAUSE FOR CONCERN BECAUSE THE VALUE OF THE SUBROGATED ASSETS, I.E. DEBT SECURITIES, CAN BE ACCURATELY DETERMINED, IN CONTRAST TO EQUITY INVESTMENTS WHERE DETERMINATION OF VALUE IS OFTEN A MAJOR STICKING POINT IN NEGOTIATING A SETTLEMENT. WITH RESPECT TO FARMING/RANCHING INVESTMENTS INVOLVING OWNERSHIP OF LAND, EMBASSY FEELS THAT IF AGRO-PROCESSING AND MARKETING FACILITIES ARE ESTABLISHED THROUGH FOREIGN INVESTMENT, THERE ARE SUFFICIENT BOLIVIAN RESOURCES TO HANDLE THE FARMING/RANCHING PRODUCTION. U.S. EQUITY INVESTMENT IN THE LAND HOLDING ASPECT OF AGRI-BUSINESS WOULD FACE EXPROPRIATION RISKS BECAUSE OF HISTORICAL BOLIVIAN VIEWS ON FOREIGN LAND OWNERSHIP. SUCH RISKS ARE NOT JUSTIFIED IN VIEW OF THE VERY LIMITED NEED FOR FOREIGN INVESTMENT IN FARMING/RANCHING HERE.

5. IF THE FOREGOING POLICY STATEMENT IS ADOPTED, IT MUST BE UNDERSTOOD BY OPIC THAT THE USUAL ELIGIBILITY CRITERIA REQUIRES FOREIGN POLICY APPROVAL BY THE DEPARTMENT OF STATE OF LIMITED OFFICIAL USE

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EACH OPIC PROJECT. FURTHER, THAT OPIC WILL AGREE TO TREAT EXISTING REGISTRATIONS FOR INSURANCE WHICH MAY NOT PROSPER IN ACCORDANCE WITH SUCH A POLICY STATEMENT IN A MANNER WHICH DOES NOT DISCLOSE THE POSITIONS OF ELEMENTS OF THE USG.

STEDMAN

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Margaret P. Grafeld
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